

REMARKS

Reconsideration of the above-identified patent application in view of the amendment above and the remarks below is respectfully requested.

No claims have been canceled in this paper. Claims 14 and 36 have been amended in this paper. New claim 44 has been added in this paper. Therefore, claims 1-44 are pending and are under active consideration.

Claims 1-13, 16-35 and 37-43 stand rejected under 35 U.S.C. 102(e) “as being anticipated by Richardson et al (US 2005/0256447).” In support of the rejection, the Patent Office states the following:

Richardson discloses a device for the control of fluid into the human body comprising a tube and a device for monitoring the administration of fluid comprising a casing 10 defining a lumen 1, a microprocessor 46, a metering device comprising pressure sensors 32, 36 located within the tube (paragraph 0086). The microprocessor can determine the volume of fluid that has passed through the lumen (paragraph 0034), the flow rate of the fluid (paragraph 0088), or the amount of time that has passed (paragraph 0073). The casing comprises a lower housing 11 and an upper housing connected by a hinge. The device comprises a connector 2 having a barb to engage the fluid delivery tube. The device comprises a display 12, a user input, and an audible alarm (paragraph 0034). The device is capable of being used with an enteral feeding tube.

Applicant respectfully traverses the subject rejection.

Claim 1, from which claims 2-9 and 19-22 depend, recites “[t]he combination of:

(a) a feeding tube, said feeding tube including a longitudinally-extending bore and an open proximal end, and

(b) a device for monitoring the administration of enteral nutritional fluids into the open proximal end of said feeding tube, said device comprising,

(i) a casing coupled to the open proximal end of said feeding tube, said casing being shaped to define a lumen in fluid communication with the longitudinally-extending bore of said feeding tube, said lumen including an inlet and an outlet, and

(ii) an electronic control circuit mounted within said casing.”

Claim 1 is neither anticipated by nor rendered obvious over Richardson et al. for at least the reason that Richardson et al. does not teach or suggest the combination of a feeding tube and a monitoring device in which the monitoring device comprises, amongst other things, **a casing shaped to define a lumen, the lumen being in fluid communication with the bore of the feeding tube.**

Instead, Richardson et al. is directed at a urine catheter control apparatus that includes “a housing 10 for containing electronic components” and “a tube 1, this [tube 1] being retained in place in the housing 10.” As best understood by Applicant, the Patent Office is apparently taking the position that Richardson housing 10 **and** Richardson tube 1 **collectively** correspond to the claimed casing. In response, Applicant respectfully submits that the Patent Office’s position is improper as Richardson housing 10 **alone** should be regarded as a “casing.” The terms “casing” and “housing” are well-known synonyms, denoting a container or cover for another object. Richardson et al. clearly uses the term “housing” in a fashion consistent with its use as a synonym for “casing,” with Richardson et al. describing housing 10 as retaining tube 1 therein. Consequently, Applicant respectfully submits that the Patent Office’s reading of “casing” to correspond to the combination of Richardson housing 10 **and** Richardson tube 1 is improper as such a reading is inconsistent with the meaning of “casing” to a person of ordinary skill in the art after having read the present application.

With Richardson housing 10 **alone** properly regarded as the structure corresponding to the claimed “casing,” Applicant respectfully submits that Richardson et al. does not anticipate or render obvious the claimed invention. This is because Richardson et al. does not teach or suggest a casing that, itself, is shaped to define a lumen in fluid communication with the bore of the feeding tube.

Claim 10, from which claims 11-13 and 15-18, claim 23, from which claims 24-31 depend, claim 32, from which claims 33-40 depend, and claim 41, from which claims 42-43 depend, is patentably distinguishable over Richardson et al. for at least the same types of reasons given above in connection with claim 1.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claims 14 and 36 stand objected to “as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.”

In response to the above, Applicant has rewritten claims 14 and 36 in independent form. Accordingly, the objection has been overcome and should be withdrawn.

New claim 44 has been added in this paper. No new matter is added by this claim. Claim 44 is patentable over Richardson et al. for at least the reason that Richardson et al. does not teach or suggest a casing comprising a first portion and a second portion, the first portion and the second portion being pivotally connected about a hinge so that the casing is alternately positionable in an open position and a closed position, the first portion of the casing being shaped to include a tubular connector, the tubular connector having an inlet and an outlet, the outlet being adapted to be coupled to the open proximal end of a feeding tube, the inlet being open to the passage of fluid therethrough

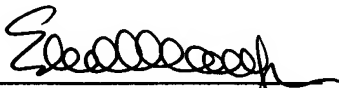
when the casing is in the open position and being closed to the passage of fluid therethrough when the casing is in the closed position.

In conclusion, it is respectfully submitted that the present application is now in condition for allowance. Prompt and favorable action is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

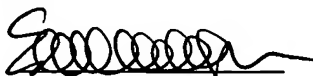
Kriegsman & Kriegsman

By: 

Edward M. Kriegsman
Reg. No. 33,529
30 Turnpike Road, Suite 9
Southborough, MA 01772
(508) 481-3500

Dated: January 22, 2008

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 22, 2008.



Edward M. Kriegsman
Reg. No. 33,529

Dated: January 22, 2008